HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
and
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

W.A. NO.732 OF 2006

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Between:
Syed Fakruddin

..... Appellant

AND

The Inspector – Auditor,
A.P. State Wakf Board, Ananthapur.
and 4 others.

.....Respondents

::JUDGMENT::

Counsel for the Appellant : Sri Mirza Safiulla Baig

Counsel for Respondent Nos.1&3: Sri Sabat Ahmed Khan

Counsel for Respondent No. 2 : Sri Syed Shareef Ahmed

Dated 17/7/2006

Per Sri G.S.Singhvi, CJ

This appeal is directed against order dated 06.06.2006 passed by the learned Single Judge in Writ Petition No.11074 of 2006 whereby he declined to entertain the appellant's prayer for quashing proceedings in F.No.PKD/HBF/1/2006 dated 15.1.2006 issued by respondent No.2, on the ground of availability of alternative remedy under Section 83 of the Wakf Act, 1995 (for short 'the Act').

Learned counsel for the appellant argued that the action taken by respondent No.2 is not relatable to any provision of the Act and, therefore, the appeal cannot be filed under Section 83 of the Act.

Learned counsel representing respondent Nos.1 to 3 fairly stated that remedy under Section 83 of the Act is not available against proceedings dated 15.1.2006.

In view of the fair stand taken by the learned counsel for the respondents, we allow the appeal and set aside the order under challenge with the direction that the writ petition be listed before the learned Single Judge for fresh adjudication.

While disposing of the appeal in the manner indicated above, we make it clear that the respondents shall be entitled to raise all legally permissible objections to the maintainability of the writ petition and persuade the learned Single Judge not to entertain on merits the grievance made by the petitioner.

As a sequel to the disposal of the writ appeal, WAMP No.1439 of 2006 is disposed of as infructuous.

G.S.SINGHVI, CJ

Dt.17.7.2006

G.V.SEETHAPATHY,J

msv.